

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 97-325-T- ORDER NO. 98-181

MARCH 9, 1998

IN RE: Application of Reliable Services Group, Inc.)	ORDER APPROVING
DBA Two Men and A Truck, 9433 Highway)	REQUEST FOR WAIVER
78, Suite A-1, Ladson, South Carolina 29456,)	OR EXTENSION
for a Class E Certificate of Public)	TO COMPLETE
Convenience and Necessity.)	SAFETY RATING
)	

This matter comes before the Public Service Commission of South Carolina ("the Commission") on the request of Reliable Services Group, Inc. d/b/a Two Men and A Truck ("Reliable") for a waiver, or an extension of time, to complete the safety audit and obtain a safety rating. For the reasons set forth below the Commission grants the requested waiver or extension.

On March 3, 1998, this Commission issued Order No. 98-164 by which the Commission approved a Class E Certificate of Public Convenience and Necessity ("Certificate") which would enable Reliable to move household goods in and from the counties of Beaufort, Berkeley, Charleston, Dorchester, Georgetown, and Horry, South Carolina. Pursuant to Order No. 98-164, Reliable would be issued its Certificate upon compliance with Commission Rules and Regulations. Some of the Rules and Regulation with which a motor carrier must comply are the filing of insurance on the Commission

prescribed forms and the filing of a safety profile from the South Carolina Department of Public Safety.

The Commission Staff informs the Commission that Reliable has met the requirements of the Commission's Rules and Regulations except for the filing of a satisfactory safety profile. The Commission is aware that upon approval of an Application for a Certificate that the Commission Staff forwards a copy of the Commission's Order and the Application of an applicant to the Department of Public Safety for the Department of Public Safety to schedule a safety audit. The Commission is further aware that the Department of Public Safety will not schedule a safety audit until the Commission issues an Order approving an Application. Upon contacting the Department of Public Safety concerning a safety audit for Reliable, the Commission Staff was informed that an audit could not be scheduled before the end of April 1998. Upon being informed of the delay in obtaining a safety audit, Reliable requested that it be granted an extension of five months in which to submit a safety rating to the Commission.

26 S.C. Code Ann. Regs. 103-133 (Supp. 1997) requires that as part of demonstrating "fitness" to operate as a motor carrier that a motor carrier must demonstrate or the Commission determine that an Applicant has a "satisfactory" safety rating. Reg. 103-133 further states that the safety rating can be obtained from U.S.D.O.T, SCDHPT, and PSC safety records. The Commission recognizes that the requirements found in Reg. 103-133 are somewhat dated. The United States Department of

Transportation and the Commission no longer perform safety ratings, and the SCDHPT is now under the South Carolina Department of Public Safety. Furthermore, the safety officers, which were once a part of the Commission, are now under the Department of Public Safety. The Commission recognizes that it has no direct control over any personnel to conduct safety audits and issue a safety rating.

26 S.C. Code Regs. 103-101(2) (1976) provides that the regulations governing motor carriers are “subject to such exceptions as may be considered just and reasonable in individual cases when strict compliance with any rule or rules produces unusual difficulty and is not in the public interest.” Thus the Commission may grant a waiver of a regulation.

The Commission notes that Reliable’s request for a waiver amounts to an extension of time in which to comply with the regulation. Reliable is not requesting a total waiver of the regulation but merely an extension of time in which to file the required safety rating. The Commission is also aware that the difficulty faced by Reliable in obtaining a safety audit and safety rating is not something that is brought about by actions of Reliable. The difficulty faced by Reliable is totally outside of Reliable’s control. In fact, the Commission has no control over the scheduling and performance of the safety audit, and the Commission cannot obtain an earlier safety audit for Reliable.

At the hearing on Reliable’s Application, the Commission was informed that Reliable has a 1995 International, 24 foot diesel, automatic truck and that the truck is in excellent condition. Reliable submitted pictures of the truck for Commission inspection

and the truck appears to be in good condition. Further, the Commission is aware that Reliable has more than adequate insurance on the vehicle.

Upon consideration of Reliable's request for a waiver and the circumstances concerning the request, the Commission finds that the waiver should be granted. In this instance, the Commission finds that strict compliance with Reg. 103-133 would produce unusual difficulty and that strict compliance with Reg. 103-133 is not in the public interest. Reliable is not responsible for the delay in obtaining a safety rating and has no control over when the safety rating will be scheduled. Therefore, the Commission concludes that strict compliance with Reg. 103-133 would produce unusual difficulty as absent a waiver of the Reg. 103-133 Reliable would not be allowed to operate prior to filing a satisfactory safety rating. Additionally, the Commission finds that a waiver of Reg. 103-133 is in the public interest. In Order No. 98-164 in which the Commission approved operating authority for Reliable, the Commission found that the public convenience and necessity required the issuance of authority to Reliable. The Commission believes that the public interest is best served by granting a five month waiver, or extension, to Reliable in which to file a satisfactory safety rating.

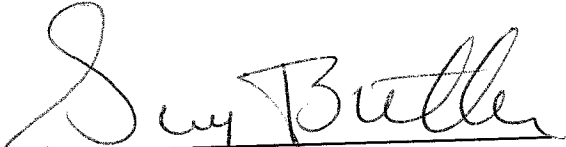
IT IS THEREFORE ORDERED THAT:

1. Reliable's request for a waiver of five months in which to file a satisfactory safety rating is granted. The waiver shall be treated as a five month extension in which to file the required safety rating.
2. Reliable shall be issued a Class E Certificate of Public Convenience and Necessity to move household goods as provided by Order No. 98-164, but the Certificate

shall be contingent upon Reliable filing a “satisfactory” safety rating with the Commission within five months of the date of this Order.

3. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)